

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

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CHARLES M. BUTLER, III,

Plaintiffs,

v.

UNIFIED LIFE INSURANCE  
COMPANY,

Defendant.

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Cause No. **CV-17-50-SPW-TJC**

**ORDER GRANTING JOINT  
UNOPPOSED MOTION FOR *CY  
PRES* DISTRIBUTION OF  
REMAINDER FUNDS**

Before the Court is the Parties' Joint Unopposed Motion for *Cy Pres* Distribution of Remainder Funds (Doc. 433). The Motion sets forth the factual history of the distribution. The Parties, through the settlement administrator, have issued checks to all Class Members, sent out a reminder notice prior to the expiration of the checks, then allowed an additional 30 days for late checks to be cashed.

In all, 18,136 checks were cashed with Class Members receiving \$4,282,427.72. Now, \$1,419,612.62 remains in the Qualified Settlement Fund due to roughly 10,000 uncashed checks. Those that did not cash checks were given post card reminders and a grace period, which has now expired.

"Most class actions result in some unclaimed funds," and the Court has "broad discretionary powers in shaping equitable decrees for distributing

unclaimed class action funds." *Six (6) Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1307 (9th Cir. 1990). The Ninth Circuit has held: "Cy Pres provides a mechanism for distributing unclaimed funds to the next best class of beneficiaries. "*In re Easysaver Rewards Litig.*, 906 F.3d 747, 760 (9th Cir. 2018) (internal citations omitted). There must be a "driving nexus between the plaintiff class and the Cy Pres beneficiary. "*Dennis v. Kellogg Co.*, 697 F.3d 858, 865 (9th Cir. 2012). *Id.*

The Parties now request that \$750,000 be donated to Mountain Health Gives for its Little Peeps project, which will provide eye exams and glasses to tens of thousands of low- and limited-income children, and \$650,000 to be donated to the Breast Cancer Research Fund, which is a leading supporter of research in the field of breast cancer and cancer metastasis. The Parties also propose that the remaining \$19,612.62 be held in the QSF for any final administrative costs for 90 days and be donated to the Montana Justice Foundation thereafter.

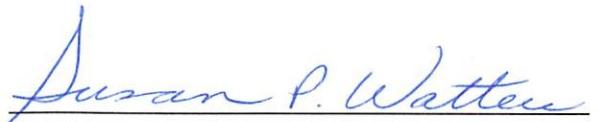
The Court finds that the non-profit organizations proposed by the Parties as beneficiaries of the remainder funds are worthy recipients of the funds and that a substantial and driving nexus exists between the work of those organizations and the Butler case and Class.

Accordingly, **IT IS HEREBY ORDERED** that \$750,000 remaining in the QSF shall be donated to Mountain Health Gives and \$650,000 shall be donated to

the Breast Cancer Research Fund. The residual amount, currently \$19,612.62, shall be held in the QSF for any final administrative costs and be donated to the Montana Justice Foundation after 90 days. Class Counsel shall supervise the distribution and report to the Court upon completion of the donations and termination of the QSF.

The Clerk of Court is directed to notify the parties of the making of this Order.

DATED this 4<sup>th</sup> day of October, 2022.

  
Susan P. Watters  
SUSAN P. WATTERS  
UNITED STATES DISTRICT JUDGE